

Decision **PROPOSED DECISION OF ALJ HYMES** (Mailed 12/9/2013)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Enhance
the Role of Demand Response in Meeting
the State's Resource Planning Needs and
Operational Requirements.

Rulemaking 13-09-011
(Filed September 19, 2013)

**DECISION APPROVING TWO-YEAR BRIDGE FUNDING
FOR DEMAND RESPONSE PROGRAMS****1. Summary**

This decision allows bridge funding for the 2015-2016 demand response programs operated by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company to ensure program continuity while the California Public Utilities Commission proceeds with its review and analysis to enhance the role of demand response in meeting California's resource planning needs and operational requirements. We require the three utilities and invite other parties to provide recommendations on revisions to improve demand response programs. This decision allows the funding for the programs in 2015 and 2016; however, the precise amount of funding and authorization to proceed will be provided in a subsequent decision, which will also determine the revisions to improve the program. This proceeding remains open.

2. Procedural Background

On September 19, 2013, the California Public Utilities Commission (Commission) adopted the Order Instituting Rulemaking (OIR) to determine

whether and how to bifurcate current utility-administered, ratepayer-funded demand response programs into demand-side and supply-side resources.¹ In the OIR, the Commission acknowledged that the review and analysis for potential changes to the demand response programs would not be complete in time for the utilities² to file applications for the 2015-2017 programs.³ Thus, the OIR recognized the need to provide for bridge funding for 2015. In order to develop a record, parties were asked whether it is reasonable to provide bridge funding. Parties filed responses to this question on October 21, 2013.

During a prehearing conference (PHC) held on October 24, 2013, several parties reiterated recommendations from their October 21, 2013 filings suggesting that the Commission consider two years of bridge funding instead of one year. As a result, on November 14, 2013, the assigned Commissioner and Administrative Law Judge (ALJ) issued a Ruling and Scoping Memo (Scoping Memo) for this proceeding that included the issue of determining whether to adopt one year of bridge funding for status quo demand response programs or two years of bridge funding for improved programs.⁴

¹ The OIR initiated Rulemaking (R.) 13-09-011.

² In this decision, the term “utilities” refers to Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE).

³ Decision (D.) 12-04-045 required the utilities to file their applications on January 31, 2014 to request funding and program approval for the 2015-2017 demand response programs. On September 18, 2013, the Executive Director granted a request by the utilities to delay filing the application until July 31, 2014.

⁴ The Scoping Memo ruled out the issue of adopting one-year bridge funding with improvements to the demand response programs due to the lack of sufficient time to build a record for that issue and, simultaneously, address the other issues in the proceeding. *See* Scoping Memo at 8.

3. Issues Before the Commission

This decision addresses two questions:

- 1) Whether to approve one year of bridge funding with status quo demand response programs or two years of bridge funding with improvements to the demand response programs provided by Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE); and
- 2) If the Commission approves two years of bridge funding with improvements, what should those improvements be.

No party opposed the idea of bridge funding.⁵ However, both PG&E and the California Independent System Operator (CAISO) expressed strong desires to contain the bridge funding to one year. In written comments to the OIR, the CAISO expressed such support for a one-year bridge year, stating that “it makes sense to defer a new application that would simply promulgate existing demand response policies and programs.”⁶ During the PHC, the CAISO explained that it supports only one year of bridge funding because “the sooner we can get to making the changes that we need, the better off we are.”⁷ PG&E also supports one-year bridge funding with no improvements, suggesting that “the Commission should move to a second phase and quickly provide guidance for

⁵ In addition to the comments discussed in this decision, the Marin Energy Authority, Olivine, Inc., California Energy Storage Alliance, Opower, Inc., and SolarCity Corporation also filed responses to the OIR in support of 2015 bridge funding.

⁶ Comments of the CAISO on Bridge Funding and the Staff Pilot Proposal in R.13-09-011, October 21, 2013 at 2.

⁷ PHC Transcript at 43, lines 12-16.

2016 and beyond applications, as is normally done in a demand response proceeding.”⁸

SDG&E, SCE, California Large Energy Consumers Association (CLECA), and EnerNOC, Inc, Johnson Controls, Inc. and Comverge Inc. (together, the Joint Demand Response Parties) all strongly believe that the amount of work necessary to adequately analyze and address the complex issues in this proceeding will take longer than one year.⁹ Several of these parties explained that even with one year of bridge funding, a decision providing guidance for 2016 demand response programs must be issued no later than July 2014 and, given the number and complexity of the issues, such guidance cannot be determined by that early a date.¹⁰

Those who recommended more than one year of bridge funding expressed concern that if the Commission approves only one year of bridge funding, and then finds that more time is needed, there could be demand response program interruptions. These parties are adamant that it is crucial for the Commission to pursue a path that allows uninterrupted delivery of current demand response

⁸ *Id.* at 48, lines 1-8.

⁹ See Response of SDG&E to Questions on Staff Proposal, October 21, 2013 at 2-3; SCE Responses to Questions Regarding Demand Response Program Bridge Funding and Staff Pilot Proposal, October 21, 2013 at 2; Comments on Demand Response Bridge Funding and Responses to Questions on Staff Proposed Pilots of the CLECA, October 21, 2013 at 6; and Response of Joint Demand Response Parties to OIR Questions on Bridge Funding and Staff Pilot Proposals, October 21, 2013 at 4.

¹⁰ In order to provide demand response programs beginning on January 1, 2016, the utilities would be required to file applications no later than January 31, 2015. Thus guidance to the utilities is needed no later than July 31, 2014.

programs and services to customers.¹¹ Furthermore, SDG&E pointed out that breaks in program funding, uncertainty as to the availability of funding, and concerns over the structure of the program portfolio all create a heightened risk of losing existing levels of customer enrollment and demand response performance.¹² From the perspective of the demand response providers¹³ contracting with the utilities, the Joint Demand Response Parties stated that negotiating a two-year contract extension versus two one-year extensions provides more stability for the customers and aggregators and reduces the amount of administration and paperwork necessary for such extensions.¹⁴ They caution that “all changes, small or large, have an impact on a third party’s ability to re-enroll customers and, therefore, increase the risk of attrition.”¹⁵ CLECA also claims that the deliberate process of review and refinement that would take place during a two-year bridge funding would provide further reassurances to participating customers.¹⁶

The Utility Reform Network (TURN) and the Office of Ratepayer Advocates (ORA) also support bridge funding but only if it includes reforms. For TURN, its recommendation for reform focuses on reductions in funding. TURN states that according to the utilities’ demand response monthly reports, the utilities have only spent between 19 percent and 23 percent of the authorized

¹¹ See, for example, SCE Responses to Questions at 2.

¹² SDG&E Response at 3.

¹³ Demand response providers are also known as demand response aggregators.

¹⁴ Joint Demand Response Parties Response at 4.

¹⁵ *Ibid.*

¹⁶ CLECA Response at 7.

funding.¹⁷ TURN claims that the 2012-2014 adopted budgets are much higher than necessary to support existing programs and customer participation.¹⁸ ORA recommends that the Commission require reforms to certain programs “to clarify the administration of the programs and ensure that the programs provide the benefits that were expected from them when the Commission approved these programs.”¹⁹

During the prehearing conference, CLECA and the Joint Demand Response Parties expressed support for two years of bridge funding with improvements noting that “if we are going to do a longer period of bridge funding then it makes sense to talk about changing the programs during the two-year period.”²⁰ However, both CLECA and the Joint Demand Response Parties expressed a need to see what the improvements would entail.²¹

4. Discussion

In considering whether to approve one year of bridge funding with status-quo demand response programs or two years of bridge funding with improvements to the demand response programs, two factors come to the forefront of our discussion: continuity for the demand response programs and time.

¹⁷ Responses of TURN to Questions Concerning 2015 Bridge Funding and Pilots, October 21, 2013 at 2-3.

¹⁸ *Id.* at 4.

¹⁹ ORA Comments on Demand Response Program Bridge Funding and Staff Pilot Proposals, October 21, 2013 at 2.

²⁰ Transcript at 41-42.

²¹ *Ibid.*

As we stated in the OIR, the Commission does not find it prudent for the utilities to spend time and resources planning for programs and subsequent applications that may not fit into a future demand response program design; hence the reason we contemplated the idea of bridge funding.²² Furthermore, the Scoping Memo affirmed that one of our top priorities, while we determine future program design, should be to ensure that the current demand response programs do not suffer lapses in service.²³ Given the current challenges that California is experiencing, for example, the loss of the San Onofre Nuclear Generating Station, the Commission must also ensure that we maintain the current level of demand response while we contemplate future program design. One year of bridge funding may not be sufficient to address all the issues in this proceeding, which both the OIR and Scoping Memo have anticipated may require up to two years to complete.²⁴

While PG&E and the CAISO have expressed an urgency to move forward to adopt a new demand response vision for 2016, the Commission should ensure that the future vision results in demand response that meets the state's long-term clean energy goals while maintaining system and local reliability, as stated in the OIR. In order to accomplish this, the Commission must proceed in an efficient but effective manner. We find that adopting up to a two-year bridge fund for 2015-2016 demand response programs will give the Commission the time to meet its goals for this proceeding, while ensuring continuity of the current demand response programs.

²² OIR at 21.

²³ Scoping Memo at 8.

²⁴ OIR at 23-24 and Scoping Memo at 10.

Thus, we will approve bridge funding for the 2015-2016 demand response programs, including the aggregated managed portfolio (AMP) program agreements with PG&E and SCE approved in D.12-04-045 and D.13-01-024. The bridge funding will begin on January 1, 2015 and end on December 31, 2016, unless otherwise stated in a future decision determining the bridge funding budget amount. As a result, and unless otherwise revised in a future decision, the deadline for the utilities to file applications for post-2016 demand response programs is rescheduled to November 30, 2015. This deadline will be reiterated in the future decision approving the amount of funding and any program improvements.

As articulated by some parties, it is reasonable for the Commission to take this opportunity to use what we have learned from demand response programs over the past year and a half to improve 2015 and 2016 outcomes of the programs. We find it practical that the current demand response programs be revised to improve their success, but on a narrow basis so that the revisions can be implemented by 2015. However, there is a limited record to allow the Commission to discuss and approve any recommendations. Thus, in a future ruling, we will solicit parties' recommendations on how to improve the reliability and effectiveness of current demand response programs.

In comments to the proposed decision, Joint Demand Response Parties, ORA, and PG&E reference a joint Petition for Modification of Decision 13-01-024 filed by EnerNOC and PG&E, and supported by ORA, requesting the Commission to approve changes to the AMP program contracts (Petition). All three parties contend that any decision made on this Petition should be reflected in a future decision on bridge funding and program improvements. Because the AMP program was authorized by D.12-04-045, they are considered part of the

overall demand response program and any changes made as a result of the Petition will be considered in our discussion regarding program improvements for 2015 and 2016.

The parties should keep in mind that the Commission is looking at changes that can be fully implemented before January 1, 2015. Thus, we require that any recommendation be implementable within a 90-day time period from the issuance of the decision approving the demand response program revisions. Furthermore, the recommendations should include an explanation and justification of how the revision improves the flexibility or reliability of the demand response program. Following the issuance of this decision, the assigned Commissioner and ALJ will provide additional guidance through a ruling to the utilities and parties for filing their demand response program revision recommendations. The deadline for filing the demand response revision recommendations will be 30 days following the issuance of the guidance ruling.

In comments to the proposed decision, CLECA stated that “there is simply not enough time to properly vet any proposed substantive changes” to demand response programs for 2015 and thus, the Commission should only make changes in 2016.²⁵ CLECA contends that there will likely be disputed issues of facts and neither testimony nor hearings are scheduled in regards to the proposed recommended changes. We reiterate that any changes recommended by parties include adequate justification and be implementable within 90 days and before January 1, 2015. Disputed facts may not allow the recommended

²⁵ Comments of CLECA on the Proposed decision Approving Two-Year Bridge Funding for Demand Response Programs, December 30, 2013 at 3.

revision to meet these requirements and therefore such a revision may not be approved by the Commission.

Lastly, we will determine the actual 2015-2016 budget in a future decision where we will also address recommended improvements to the demand response programs. In comments to the proposed decision, PG&E requests that the Commission coordinate the increase in the annual revenue requirement in this decision to reflect PG&E's 2014 General Rate Case (GRC) I Partial Settlement to allocate a portion of Administrative and General expenses from GRC distribution to Customer Programs.²⁶ Because we are not addressing specific amounts or specific programs for the 2015-2016 bridge funding, we will not address the GRC reallocation issue in this decision. However, we will address the issue in the future decision specifying the approved bridge funding. Additional information may be required from PG&E in the program improvement guidance ruling to be issued following the issuance of this decision.

At this time, the 2015-2016 bridge funding will be capped at the same level as the utilities' current 2013-2014 demand response budget, as approved in D.12-04-045 and D.13-01-024 and modified by D.13-04-017, with an additional \$2.895 million for PG&E's demand response administrative costs as proposed in the Partial Settlement requested in Application (A.) 12-11-009.

5. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were

²⁶ PG&E Comments at 4.

allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on December 30, 2013 by CLECA, Joint Demand Response Parties, ORA, PG&E, SCE, and SDG&E, and reply comments were filed on January 6, 2014 by ORA and PG&E.

Revisions have been made throughout this decision as appropriate in response to the comments received. We address a few specific comments below.

In its comments, ORA recommends that the Commission encourage parties to work collaboratively to implement improvements to programs in 2014.²⁷ While the Commission supports parties working collaboratively to improve Commission regulated programs, we caution that changes made to 2014 programs are not in the scope of this proceeding and, thus, may require petitions for modification of D.12-04-045. We are concerned that time and resources spent on such petitions could result in time and resources taken away from this proceeding. That being said, collaboratively developed program improvements for 2014 not requiring Commission approval are highly encouraged.

PG&E requested the Commission to make additional changes to the proposed decision which we address here: 1) clarify the bridge funding years as an extension of the current budget cycle; 2) authorize funding for the demand response portion of integrated demand side management costs; and 3) allow increased funding shifting flexibility for implementing the bridge funding. We deny all three of these requests, at this time, as described in the following paragraphs.

²⁷ ORA Comments at 2-3.

PG&E claims the Commission should allow any unspent funds from 2012-2014 to be available in 2015-2016 in order to facilitate the smooth continuation of demand response programs but provides no evidence that without these funds the transition would be problematic. Thus, we do not have evidence to approve fund shifting between budget cycles in this decision. However, we will request further information in the guidance ruling to be issued following this decision and address the issue in the future decision specifying the bridge funding amount.

PG&E requests that the Commission authorize the demand response portion of IDSM funds during the 2015-2016 bridge funding rather than requesting the funding the energy efficiency proceeding. In D.12-04-045, we explained that “beyond 2012 all IDSM activities would be proposed and approved through the energy efficiency proceeding.”²⁸ There is nothing in the record of this proceeding that would lead us to change this policy.

Lastly, PG&E requests the Commission to relax the rules on fund shifting to ease the transition of the Administrative and General revenue requirement from the GRC to the demand response balancing account, to facilitate implementing program improvements, and other unforeseen changes.²⁹ PG&E proposes to reduce the current ten budget categories to six categories. PG&E made a similar request in A.11-03-001 et al., which we denied in D.12-04-045 to safeguard budget transparency.³⁰ At this time, we find nothing in the record to lead us to change our policy on fund shifting.

²⁸ D.12-04-045 at 171.

²⁹ PG&E Comments at 5.

³⁰ D.12-04-045 at 25.

6. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Kelly A. Hymes is the assigned ALJ in this proceeding.

Findings of Fact

1. Continuity of the demand response programs and time are the two factors in the forefront of this decision.

2. The Scoping Memo affirmed that one of our top priorities, while we determine future program design, should be to ensure that the current demand response programs do not suffer lapses in service.

3. The Commission must also ensure that we maintain the current level of demand response while we contemplate future program design.

4. The issues we plan to address in this proceeding are numerous and complex.

5. In order to ensure that the future vision of demand response results in demand response that meets the state's long-term clean energy goals while maintaining system and local reliability, the Commission must proceed in an efficient but effective manner.

6. Adopting a two-year bridge fund will give the Commission the time to meet its goals for this proceeding, while ensuring continuity of the current demand response programs.

7. It is practical that the current demand response programs be revised on a narrow basis to improve their success.

8. There is a limited record at this point in R.13-09-011 to allow the Commission to adopt any recommendations in this decision for improvements to 2015-2016 demand response programs.

Conclusions of Law

1. It is reasonable for the Commission to approve up to two years of bridge funding for 2015-2016 demand response programs for PG&E, SDG&E, and SCE.

2. It is reasonable for the Commission to take this opportunity to use what we have learned from demand response programs over the past year and a half to improve 2015 and 2016 outcomes of the programs.

O R D E R**IT IS ORDERED** that:

1. Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company are granted up to two years of bridge funding for the 2015-2016 demand response programs, including the aggregated managed portfolio program agreements. The exact amount of funding will be determined in a later decision but is currently capped at an amount equal to each utility's 2013-2014 demand response program budget, as approved by Decisions 12-04-045, 13-01-004, and 13-04-017, and an additional \$2.895 million for Pacific Gas and Electric Company's demand response administrative costs as proposed in the Partial Settlement requested in Application 12-11-009.

2. Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall file 2015-2016 demand response program improvement recommendations, as further directed by a future assigned Commissioner and Administrative Law Judge guidance ruling. The deadline for the filings will be 30 days following the issuance of the guidance ruling.

3. Parties to Rulemaking 13-09-011 are invited to file 2015-2016 demand response program improvement recommendations, as further directed by a future assigned Commissioner and Administrative Law Judge guidance ruling. The deadline for the filings will be 30 days following the issuance of the guidance ruling.

4. Rulemaking 13-09-011 remains open to address additional issues.

This order is effective today.

Dated _____, at San Francisco, California.